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ATTORNEYS FOR ALL PLAINTIFFS

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

JANE ROE, an individual; MARY ROE,  
an individual; SUSAN ROE, an  
individual; JOHN ROE, an individual;  
BARBARA ROE, an individual;  
PHOENIX HOTEL SF, LLC, a  
California limited liability company;  
FUNKY FUN, LLC, a California limited  
liability company; and 2930 EL  
CAMINO, LLC, a California limited  
liability company,

Plaintiffs,

v.

CITY AND COUNTY OF SAN  
FRANCISCO, a California public entity,

Defendants.

Case No. 4:24-cv-01562-AMO

**PLAINTIFFS' MOTION FOR  
ADMINISTRATIVE RELIEF TO  
CONSIDER WHETHER  
PLAINTIFFS' DECLARATIONS  
SHOULD BE FILED UNDER SEAL**

FILED CONCURRENTLY WITH  
PLAINTIFFS MOTION FOR  
ADMINISTRATIVE RELIEF  
REQUESTING PERMISSION TO USE  
PSEUDONYM ON PUBLICLY FILED  
PLEADINGS

**ASSIGNED FOR ALL PURPOSES  
TO THE HONORABLE ARACELI  
MARTINEZ-OLGUIN, COURTROOM  
10**

Action Filed: 03/14/2024

1 Trial Date: Unassigned

2 PLEASE TAKE NOTICE that, pursuant to local Rule 7-11 and Local Rule 79-  
3 5, Plaintiffs file this Administrative Motion to Consider Whether Plaintiffs'  
4 Declarations Should be Filed under Seal. Pursuant to relief sought in Plaintiffs'  
5 concurrently Administrative Motion to Request Permission to Use a Pseudonym on  
6 Publicly Filed Pleadings, the materials sought to be sealed by this administrative  
7 motion are the true names of five Plaintiffs. Plaintiffs seek an order permitting them  
8 to use pseudonyms in any publicly filed documents, including the complaint.

9 A party seeking to file materials under seal bears the burden to show  
10 materials are deserving of confidentiality. (*Foltz v. State Farm Mut. Auto. Ins. Co.*,  
11 331 F.3d 1122, 1135 (9th Cir.2005).) Specifically, a party must "articulate compelling  
12 reasons supported by specific factual findings that outweigh the general history of  
13 access and the public policies favoring disclosure." (*Kamakana v. City and County of*  
14 *Honolulu*, 447 F.3d 1172, 1179 (9th Cir.2006) (internal citations omitted).)

15 Five of the Plaintiffs in this case concurrently seek an order permitting them  
16 to use pseudonyms for fear of retaliatory physical harm. (See Plaintiffs Motion for  
17 Administrative Relief Requesting Permission to Use Pseudonym on Publicly Filed  
18 Pleadings ("Administrative Motion to Use Pseudonym"), generally.) Federal courts  
19 have allowed plaintiffs to use pseudonyms for various reasons, including when  
20 "identification creates a risk of retaliatory physical or mental harm." (*Does I thru*  
21 *XXIII v. Advanced Textile Corp.*, 214 F.3d 1058, 1068 (9th Cir. 2000).)

22 Plaintiffs seek injunctive relief from the City and County of San Francisco's  
23 ("City") *de facto* treatment of the Tenderloin as San Francisco's "containment zone"  
24 for illegal narcotics activities and the associated crimes and injurious harms. Public  
25 disclosure of their names could expose them to physical retaliation by those involved  
26 in the illegal narcotics trade. Plaintiffs have a legitimate private interest, namely  
27 their safety, in seeking to have their true names filed under seal.

28 In support of that motion, Plaintiffs submit declarations containing their true

names and describing the conditions that cause them to fear retaliatory physical harm. (Declaration of Jane Roe ("Jane Roe Dec."), ¶¶1-13; Declaration of Susan Roe ("Susan Roe Dec."), ¶¶1-7; Declaration of Mary Roe ("Mary Roe Dec."), ¶¶1-7; Declaration of John Roe ("John Roe Dec"), ¶¶1-7; Declaration of Barbara Roe ("Barbara Roe Dec."), ¶¶1-8.) Each plaintiff has expressed trepidation to move forward with their claims if her or his name is to be publicly revealed. (Jane Roe Dec., ¶¶12-13; John Roe Dec., ¶7; Mary Roe Dec., ¶7; Susan Roe Dec., ¶7; Barbara Roe Dec., ¶8.)

Defendant City and County of San Francisco has not agreed to stipulate to the use of pseudonyms and has instead opposed that approach. (See ECF no. 16 and accompanying declaration of Matthew D. Davis.) Thus, Plaintiffs must submit declarations in support of their request to use pseudonyms. (Civil Local Rule 7-11.) Plaintiffs have no less restrictive means to request relief to use pseudonyms, other than by submitting declarations that contain their true names. Redaction and sealing of their true names is the only sufficient means to seek the administrative relief related to their complaint.

Plaintiffs request that should this Court deny this administrative motion to seal Plaintiffs' declarations, then Plaintiffs be given the opportunity to withdraw the declarations that are being provisionally filed under seal. As is set forth in the declarations, some of the individual plaintiffs may decide not to remain involved in this litigation if the Court decides that their true names should be revealed in publicly filed documents. (Jane Roe Dec., ¶¶12-13; John Roe Dec., ¶7; Mary Roe Dec., ¶7; Susan Roe Dec., ¶7; Barbara Roe Dec., ¶8.)

The portions of the documents sought to be sealed are:

| DOCUMENT   | PORTIONS TO BE FILED UNDER SEAL                  |
|--|--|
| <b>Exhibit A</b> to the Declaration of Matthew D. Davis in Support of the Motion to File Under Seal, | Plaintiff Jane Roe's true name on pages 2 and 7. |

|    |                            |   |
|----|----------------------------|---|
| 1  | Declaration of Jane Roe    |   |
| 2  | <b>Exhibit B</b> to the    | Plaintiff John Roe's true name on pages 2 and 5.    |
| 3  | Declaration of Matthew D.  |   |
| 4  | Davis in Support of the    |   |
|    | Motion to File Under Seal, |   |
|    | Declaration of John Roe    |   |
| 5  | <b>Exhibit C</b> to the    | Plaintiff Susan Roe's true name on pages 2 and 3.   |
| 6  | Declaration of Matthew D.  |   |
| 7  | Davis in Support of the    |   |
|    | Motion to File Under Seal, |   |
|    | Declaration of Susan Roe   |   |
| 8  | <b>Exhibit D</b> to the    | Plaintiff Mary Roe's true name on pages 2 and 3.    |
| 9  | Declaration of Matthew D.  |   |
| 10 | Davis in Support of the    |   |
|    | Motion to File Under Seal, |   |
|    | Declaration of Mary Roe    |   |
| 11 | <b>Exhibit E</b> to the    | Plaintiff Barbara Roe's true name on pages 2 and 5. |
| 12 | Declaration of Matthew D.  |   |
| 13 | Davis in Support of the    |   |
|    | Motion to File Under Seal, |   |
|    | Declaration of Barbara Roe |   |

14  
15 Respectfully submitted.

16 Dated: March 21, 2024

WALKUP, MELODIA, KELLY & SCHOENBERGER

17  
18 By: /S/ Matthew D. Davis

19 MICHAEL A. KELLY  
20 RICHARD H. SCHOENBERGER  
21 MATTHEW D. DAVIS  
22 ASHCON MINOIEFAR  
23 Attorneys for ALL PLAINTIFFS  
24  
25  
26  
27  
28

**PROOF OF SERVICE**

**Jane Roe, et al. v. City and County of San Francisco, et al.  
Case No. 4:24-cv-01562-AMO**

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the county where the mailing took place, My business address is 650 California Street, 26th Floor, City and County of San Francisco, CA 94108-2615.

On the date set forth below, I caused to be served true copies of the following document(s) described as

- PLAINTIFFS' MOTION FOR ADMINISTRATIVE RELIEF TO CONSIDER WHETHER PLAINTIFFS' DECLARATIONS SHOULD BE FILED UNDER SEAL
- DECLARATION OF MATTHEW D. DAVIS IN SUPPORT OF MOTION FOR ADMINISTRATIVE RELIEF TO CONSIDER WHETHER PLAINTIFFS' DECLARATIONS SHOULD BE FILED UNDER SEAL
- [PROPOSED] ORDER FOR PLAINTIFFS MOTION FOR ADMINISTRATIVE RELIEF TO CONSIDER WHETHER PLAINTIFFS' DECLARATIONS SHOULD BE FILED UNDER SEAL

to:

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**BY CM/ECF NOTICE OF ELECTRONIC FILING:** I electronically filed the document(s) with the Clerk of the Court by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

1 Participants in the case who are not registered CM/ECF users will be served by mail  
2 or by other means permitted by the court rules.

3 I declare under penalty of perjury under the laws of the United States of  
4 America that the foregoing is true and correct and that I am employed in the office of  
5 a member of the bar of this Court at whose direction the service was made.

6 Executed on March 21, 2024, at San Francisco, California.

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Kirsten Benzien